

**BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA  
DOCKET NO. \_\_\_\_\_**

**IN RE:**

Palmetto Electric Cooperative, Inc.,

Complainant,

vs.

South Carolina Electric & Gas Co.,

Respondents.

**COMPLAINT**

TO: THE ABOVE NAMED RESPONDENT:

Complainant would respectfully show:

1. Complainant Palmetto Electric Cooperative, Inc. ("Palmetto Electric"), an electric cooperative established under South Carolina law, provides electric service to domestic, commercial, or industrial customers in South Carolina, subject to certain regulations by the South Carolina Public Service Commission ("Commission"). It is located at the following address:

One Cooperative Way  
Hardeeville, South Carolina 29927  
Telephone: (843) 208-5551

2. Respondent South Carolina Electric & Gas Company, Inc. ("SCE&G") is an electric utility that provides electric service to domestic, commercial, and industrial customers in South Carolina. It is located at the following address:

1426 Main Street  
Columbia, South Carolina 29218  
Telephone: (803) 748-3477

3. The Commission has jurisdiction over the parties and the subject matter of this Complaint pursuant to S.C. CODE ANN. §§ 58-27-10, et seq.

4. This dispute concerns the right of Palmetto Electric to serve the new Bluffton Middle School premises, part of the Beaufort County School District ("School District"), pursuant to the customer-choice provision found in S.C. CODE ANN. § 58-27-620.

5. The School District plans to build a new Bluffton Middle School, located in the Bluffton area, in an area unassigned for service by either SCE&G or Palmetto Electric. Because the premises is located in unassigned territory, the customer has the choice of service from either SCE&G or Palmetto Electric.

6. Upon information and belief, SCE&G initiated contact with the School District in late 2006 to early 2007, without informing the School District that it had a right to choose either SCE&G or Palmetto Electric.

7. By failing to inform the School District that it had the option of choosing electric service providers, SCE&G denied the School District a meaningful customer-choice of electric service. A customer lacks a meaningful choice of service where the customer is unaware it has an option of service.

8. Upon information and belief, SCE&G knew the School District had a choice between SCE&G and Palmetto Electric, but either neglected to inform the School District about the customer-choice option or misrepresented that only SCE&G could provide service. Either way, SCE&G denied the School District a meaningful choice of electric service.

9. After SCE&G contacted the School District, SCE&G requested that the School District sign a power availability letter (a non-binding letter of intent) to provide electric

service. Because the School District was unaware of the customer choice option at the time it executed the letter of intent, such letter of intent should be held invalid as it violates the customer-choice provisions found in S.C. CODE ANN. § 58-27-620 et seq.

10. Furthermore, such letter of intent is invalid to the extent that it purports to bind the School District to anything other than temporary or construction service. Section 58-27-620(3) specifically provides:

(3) No electric supplier shall furnish temporary electric service for the construction of premises which it would not have the right to serve under this section if such premises were already constructed. The construction of lines for, and the furnishing of, temporary service for the construction of premises which any other electric supplier, if chosen by the consumer, would have the right to serve if such premises were already constructed, shall not impair the right of such other electric supplier to furnish service to such premises after the construction thereof, if then chosen by the consumer; nor, unless the consumer chooses to have such premises served by the supplier which furnished the temporary service, shall the furnishing of such temporary service or the construction of a line therefor impair the right of any other electric supplier to furnish service to any other premises which, without regard to the construction of such temporary service line, it has the right to serve.

See S.C. CODE ANN. § 58-27-62 (3)(emphasis added).

11. Under South Carolina common law, such letter of intent does not bind the School District to SCE&G as it fails to establish proper or meaningful customer choice.

12. Therefore, a controversy exists between the parties that is ripe for determination, and Palmetto Electric is entitled to injunctive and declaratory relief.

13. As of today, the premises to be served, remains in a *very early* stage of construction. In order to prevent a race to build infrastructure, the Commission should instruct SCE&G to refrain from any investment in infrastructure or facilities until such time that the Commission determines whether meaningful customer choice is effective where the customer is unaware that it has such option or choice.

**WHEREFORE**, Palmetto Electric prays for the following relief:

- a. That the Commission appoint a hearing officer and schedule a status conference as soon as possible;
- b. That pursuant to S.C. CODE ANN. § 58-27-620 et seq., the Commission issue an Order granting Palmetto Electric Declaratory Relief, striking the letter of intent, and allowing Palmetto the opportunity to offer electric service to the School District;
- c. That the Commission enjoin SCE&G from taking any further electric service action to the Bluffton Middle School until the meaningful customer choice matter may be adjudicated; and
- d. For such further relief as the Commission may deem just and proper.

s/ J. David Black

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J. David Black  
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May 19, 2009

Columbia, South Carolina